

**REMARKS / ARGUMENTS**

Claims 1-12 remain pending in this application.

**Information Disclosure Statement**

The PTO-1449 Form filed on February 23, 2005 has not been acknowledged by the Examiner in the Office Action of April 5, 2006. Accordingly, Applicant requests the Examiner initial and return a copy of the enclosed PTO-1449 Form to indicate that these documents have been considered. A copy of the date-stamped, mailroom receipt is enclosed to indicate proof of receipt by the PTO.

**35 U.S.C. §103**

Claims 1-5, 8, 10-11 and 13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Nebeker (U.S. Patent No. 5,566,395) in view of Ogden (U.S. Patent No. 5,727,336). Claims 6, 9, 11-12 and 14-16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Nebeker in view of Bryant et al (U.S. Patent No. 5,366,801). Claims 17 and 18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Nebeker in view of Sessa (U.S. Patent No. 5,400,526). These rejections are traversed as follows.

The Examiner's attempt at combination of references fails to disclose a shoe or boot having the recited layers, in particular, the thermal, nonwoven composite. The claims have been modified to clarify this feature in combination with the other

limitations of the claims. The thermal nonwoven composite is formed by having an open cell foam inserted inside the internal structure of a nonwoven.

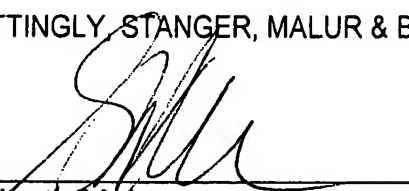
The Examiner states that the spacing layers of Nebeker are interpreted as the claimed "thermal insulating layer", citing column 2, lines 6-26. However, this portion of Nebeker clearly states that the spacing layers are selectively attachable to one another in stacking fashion in the thickness direction to alter the thickness of the liner. Therefore, the spacing layers cannot be said to correspond to the claimed thermal insulating layers. The deficiencies in Nebeker are not overcome by resort to Ogden, Bryant et al or Sessa. As such, it is submitted that the pending claims patentably define the present invention over the cited art as none disclosed the claimed combination including a thermal nonwoven. Furthermore, none of the references disclose the thermal insulating layer as in claim 1.

### **Conclusion**

In view of the foregoing, Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.

By   
Shrinath Malur  
Reg. No. 34,663  
(703) 684-1120

FORM PTO-1449  
(REV. 7-80)U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

ATTY. DOCKET NO.

BAY-510

SERIAL NO.

10/786,416

## LIST OF DOCUMENTS CITED BY APPLICANT

(Use several sheets if necessary)

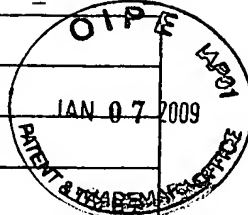
APPLICANT

BAYCHAR

FILING DATE

February 26, 2004

GROUP



## U.S. PATENT DOCUMENTS

* EXAMINER INITIAL	DOCUMENT	DATE	NAME	CLASS	SUBCLASS	FILING DATE (if Appropriate)
AA	5,126,182	06/1992	Lumb et al			
AB	4,482,593	11/1984	Sagel et al			
AC	6,602,811	08/2003	Rock et al			
AD	5,970,629	10/1999	Tucker et al			
AE	6,237,251	05/2001	Lichtfield et al			
AF	5,035,943	07/1991	Kinlaw et al			
AG	2002/ 0012784	01/2002	Norton et al			
AH						
AI						
AJ						
AK						

## FOREIGN PATENT DOCUMENTS

	DOCUMENT	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
						YES	NO
AL						<input type="checkbox"/>	<input type="checkbox"/>
AM						<input type="checkbox"/>	<input type="checkbox"/>
AN						<input type="checkbox"/>	<input type="checkbox"/>
AO						<input type="checkbox"/>	<input type="checkbox"/>
AP						<input type="checkbox"/>	<input type="checkbox"/>

## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, etc.)

AR	Rodriguez, Ferdinand, "Principles of Polymer Systems, 1982, Hemisphere Publishing Corp., 2 <sup>nd</sup> Ed., p. 362.
AS	
AT	

EXAMINER

DATE CONSIDERED

\* EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.  
1800 Diagonal Road, Suite 370  
Alexandria, Virginia 22314  
(703) 684-1120

BAY-510

Appl. No. : 10/786,416 Confirmation No. N/A  
Applicant : BAYCHAR  
Filed : February 26, 2004  
Title : RUNNING SHOES, HIKING SHOES AND BOOTS,  
SNOWBOARD BOOTS, ALPINE BOOTS, HIKING BOOTS,  
AND THE LIKE, HAVING WATERPROOF/BREATHABLE  
MOISTURE TRANSFER CHARACTERISTICS  
TC/AU : TBD  
Examiner : TBD  
Docket No. : BAY-510  
Customer No.: 24956



Papers Filed Herewith:

INFORMATION DISCLOSURE STATEMENT,  
PTO-1449 Form and one cited reference.

Receipt is hereby acknowledged of the papers filed, as identified in connection with  
the above-identified patent application.

COMMISSIONER FOR PATENTS